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DIGEST OF OTHER RECENT VIRGINIA DECISIONS.

(Syllabi prepared by M. P. Burks, State Reporter.)

MITCHELL V. COMMONWEALTH*.—Decided at Richmond, January 17, 1895.—*Harrison, J.*

1. INDICTMENT—*Several misdemeanors in one indictment.* Several misdemeanors of the same nature, and upon which the same or similar judgments may be rendered, may be united in the same indictment under separate counts.

2. INDICTMENT—*Several offences in one indictment—Election on which to proceed.* In cases of felony where several offences are charged in different counts of the indictment, if the court sees that the charges are so distinct that to try them together would confound the prisoner, or distract the attention of the jury, it will require the prosecuting attorney to elect which count he will try first, but this rule has no application to misdemeanors which are only punishable by fine and imprisonment.

3. CRIMINAL PRACTICE—*Several verdicts—Joint judgment.* Where a prisoner is found guilty on several counts of an indictment for misdemeanors, and separate fines are imposed in each by the jury, only one judgment need be entered for the aggregate of the fines and the costs.

4. INSTRUCTIONS NO PART OF RECORD—*Bill of exceptions.* Instructions given to the jury are no part of the record of a case unless made so by a bill of exceptions taken at the proper time, and hence cannot be objected to in the appellate court.

ORR V. PENNINGTON'S ADM'R.—Decided at Wytheville, June 25, 1896.—*Buchanan, J.* Absent, *Harrison, J.*

1. APPELLATE PROCEEDINGS—*Petition for appeal—Essentials of—Motion to dismiss appeal—Lapse of time.* A petition for an appeal is a pleading, and should state clearly and distinctly all the errors relied on for a reversal of the decree. Otherwise the appeal, if granted, should be dismissed. But a motion to dismiss for this cause will not be granted after the lapse of more than three years, when the right of appeal has become barred by limitation.

2. UNDUE INFLUENCE—*Laches in asserting.* A bill to set aside a deed on the ground of undue influence exercised over the grantor will not be entertained after long and unexplained delay, the death of the grantor and of the grantee in the deed, and gross laches on the part of the complainant.

3. UNDUE INFLUENCE—*What constitutes—Conveyance from parent to child in consideration of support.* The influence which will vitiate an act must amount to force and coercion, destroying free agency, and not be merely the influence of affection. The act must be obtained by this coercion, and it must appear that it was done merely for the sake of peace, so that the motive was tantamount to force or fear. A court of equity will not avoid a conveyance from a parent to a child made in consideration of the support of the parent by the child when it appears that the

*This case has only recently been directed to be reported.